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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,455	10/27/2003	Peter Rosler	03-176	2520
30058	7590	10/04/2005	EXAMINER	
COHEN & GRIGSBY, P.C. 11 STANWIX STREET 15TH FLOOR PITTSBURGH, PA 15222			RODRIGUEZ, RUTH C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Me*

## Office Action Summary

Application No.

10/694,455

Applicant(s)

ROSLER, PETER

Examiner

Ruth C. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-19 is/are rejected.
- 7) ☒ Claim(s) 12 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 11 objected to because of the following informalities: Claim 11 recites the limitation "the blocking means" in the second line. There is insufficient antecedent basis for this limitation in the claim. Correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-8, 11 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent Document DE 75 14 807 U1 (DE '807).

A locking mechanism comprises a first part (2), a second part (1) and a blocking element (2d). The first part defines a recess having a holding surface (2a1) and a bottom surface (2c). The second part cooperates with the first part in interlocking relationship (Figs. 1-6). The second part defines a tongue (1a1) that cooperates with the holding surface of the recess to secure the first part the second part (Figs. 4-6). The second part is releasable from the first part by deflecting the tongue toward the bottom surface of the recess C. 4, L. 15-21). The blocking element is located between the bottom surface of the first part and the tongue of the second part (Fig. 5). The

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blocking element is severably connected to one of the tongue or the bottom surface of the recess by a connector (2e) that is severable such that the blocking element blocks the deflection of the tongue in the direction towards the bottom surface of the recess at times when the connector is unsevered (Fig. 5). The blocking element is secured to one of the tongue or the bottom surface of the recess (Figs. 1-6). The tongue is deflectable when the connector is severed and the blocking element is removed from between the tongue and the bottom surface (C. 4, L. 15-21 and Fig. 6).

DE '807 also discloses that:

- The locking mechanism further comprises a tool that severs the connector from the blocking element from the tongue of the second part or from the bottom surface of the recess of the first part (C. 4, L. 15-21).
- The blocking element is comprised of the same material as the second part and wherein the blocking element and the second part are connected by an integral ridge (2e) formed in an integral part (Figs. 1-6 since the first and second part are connected to each other).
- The portion of the second part that defines the tongue, the portion of the first part that defines the recess and the blocking element are made from plastic material (C. 4, L. 32-34).
- The plastic material of the blocking element is the same type of material as the plastic material of the tongue and the portion of the first part that defines the recess (C. 4, L. 32-34 and Figs. 1-6).

- The first part includes a ridge member (2a1) that defines the holding surface of the first part and the ridge member and the blocking element are molded onto the first part by means of plastic injection molding (C. 4, L. 32-34).
- The tongue and the blocking element are molded onto the second part by means of plastic injection member (C. 4, L. 32-34).
- The blocking element is connected to the bottom surface of the recess of the first part (Figs. 1-6).
- The container is a closed container in which objects can be stored (Abstract and Figs. 1-6).
- The locking mechanism is for a holding device (Figs. 1-6). The first part comprises a holding plate (2b) and the second part comprises a tongue (B) that is pivotally connected to the holding plate (Figs. 1-6). The tongue includes and interlocking tongue (1a1) that engages a surface of the recess on the holding plate to secure the tongue to the holding plate.
- The locking mechanism can be repeatedly opened and closed at times when the blocking element is not in place between the first part and the second part (Fig. 4).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 9, 10 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE '807.

DE '807 discloses a locking mechanism having all the limitations listed above in paragraph 3 for the rejection of claims 1 and 2. DE '807 only discloses the use of a suitable tool used for severing the connector. DE '807 fails to disclose that the tool includes a blade for severing the connector of the blocking element. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have a blade for the suitable tool that severs or divides the connector since the Examiner takes Official Notice to the fact that the use of tools having a blade to sever or divide a connector for a container used to secure merchandise within the container is well known in the theft deterrent art. The blade provides a quick way to sever or divide such a connector with minimal effort.

DE '807 discloses that blocking element is a separate member (2d) molded onto the recess of the first part. DE '807 fails to disclose that the blocking element is secured to one of the tongue of the second part or the recess of the first part by fastening means. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the blocking element secured to the recess of the first part by fastening means since the Examiner takes Official Notice of equivalents of the integral connector or hinge and the fastening means for their use in the container art and the selection of these known equivalents to connect the blocking element and recess of the first part would be within the level of ordinary skill in the art. Specially in

those instances where it is desired to use different materials for the blocking element and the first part or where molding is not being used to make the container and fastening means are required to join the first part to the blocking element.

The Examiner takes Official Notice that gluing, screwing and riveting are commonly used as fastening means to connect two part of a container made by different materials or from a material other than plastic.

DE '807 discloses the use of a single blocking element per recess. DE '807 fails to disclose that the blocking element comprises an array of separate elements where each element of the array blocks the deflection of the tongue in the direction toward the bottom surface of the recess. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have the blocking element comprises an array of separate elements where each element of the array blocks the deflection of the tongue in the direction toward the bottom surface of the recess since duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Adding additional blocking element will prevent accidental release of the locking mechanism since the added elements will prevent the separation of the first and second parts.

A tool is required to separate each element of the array from one of the first part or the second part (C. 4, L. 15-21 since otherwise the first and second part can not open in accordance with the disclosure of DE '807).

DE '807 fails to disclose that the elements of the array of blocking elements can be arranged in side-by-side relationship or in end to end relationship. However, it would

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have been obvious to one having ordinary skill in the art at the time the invention was made to have elements of the array of blocking elements can be arranged in side-by-side relationship or in end to end relationship since it has been that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Specially since the applicant fails to provide any criticality to the arrangement between the part for each particular configuration.

### ***Allowable Subject Matter***

Claims 12 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-11 and 13-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Neely (US 4,212,415), Morris (US 4,567,983 and US 4,572,369), Koch (US 4,822,964), Klodt et al. (US 5,544,751), Dangel (US 5,577,779) and Vasudeva (US 6,241,092 B1) are cited to show state of the art with respect to locking mechanisms that have similar features to the ones being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

RRR  
rcr

September 27, 2005

  
ROBERT J. SANDY  
PRIMARY EXAMINER